

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

WILLIAM F. SPENCER,)
9380 St. Clair Avenue)
Cleveland, OH 44108,)
Plaintiff,)

-VS-

) **COMPLAINT**
) Trial by Jury Endorsed Hereon

CLEVELAND PUBLIC LIBRARY,)
325 Superior Avenue)
Cleveland, OH 44114)
Defendant.)

NATURE OF THE ACTION

1. This is an action instituted under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621, *et seq.*, and the Ohio Civil Rights Act, Ohio Revised Code §§ 4112.01, *et seq.*, to vindicate state and federally protected rights against unlawful employment practices on the basis of age.

JURISDICTION AND VENUE

2. Jurisdiction is invoked pursuant to the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. §§ 626 (b) and (c), federal jurisdiction pursuant to 28 U.S.C. §§ 1331(A), 1337 and 1343(3) and (4) and supplemental federal jurisdiction over asserted state law claims pursuant to 28 U.S.C. § 1367. With respect to ADEA claims, jurisdiction arises out the timely filing of this complaint pursuant to receipt of a Notice of Right to Sue on dated November 2, 2021, postmarked November 4, 2021 and received shortly thereafter.. The notice and postmarked envelope accompany this complaint and are incorporated by reference as Exhibit A.

3. With respect to the Ohio Civil Rights Act, Ohio Revised Code §§ 4112.01, *et seq.*, jurisdiction is invoked pursuant to 28 U.S.C. § 1367.

4. Venue in this Court is proper because the unlawful employment actions and practices alleged were and continue to be committed within the jurisdiction of the United States District Court for the Northern District of Ohio, Eastern Division.

PARTIES

5. Plaintiff WILLIAM F. SPENCER is a 76-year-old African American male who, at all relevant times, was employed and continues to be employed by defendant and who has sought to perform his duties free from restrictions on account of age and from retaliation for engaging in a protected activity.

6. Defendant CLEVELAND PUBLIC LIBRARY (hereinafter, “Cleveland Public Library” or “Library”) is an employer as defined by the ADEA and by the Ohio Civil Rights Act and at all relevant times was and continues to be the employer of the plaintiff.

7. Plaintiff William F. Spencer reasserts the foregoing allegations and incorporates them by reference as if fully set forth herein.

8. Mr. Spencer is a man of deep and vast worldwide experience in military, corporate and community relations.

9. From 1964 through 1978 Mr. Spencer served in the United States Marine Corp ending his military service as Captain, one of the Marine Corps’ relatively few Black Captains at the time.

10. His service throughout the United States, Europe and Asia exposed Mr. Spencer to national and international cultures, languages and people as broad as it was diverse.

11. A highly decorated Marine, he is the recipient of, *inter alia*, the Presidential Unit Commendation, Vietnam Meritorious United Commendation Cross of Gallantry and Combat Action Ribbon.

12. As with his broad military accomplishments, Mr. Spencer held significant responsibilities to major corporations and non-profit organizations including serving as Motorola, Inc.’s Personnel Administrator, William’s & Wilkin’s Publishing Company’s Educational Sales Representative, Director of

Admissions of the Maryland Institute of Technology and Director of Employment Services of the Baltimore Urban League.

13. Locally, Mr. Spencer served as a mathematics instructor, academic programs supervisor and residential living supervisor of the Cleveland Job Corps Center.

14. Mr. Spencer's academic accomplishments have also been exemplary.

15. Mr. Spencer is the recipient of the John P. McNulty Scholarship where he is completing his Master of Arts in Humanities at John Carroll University.

16. Mr. Spencer received an earlier master's degree, a Masters in Library and Information Science (Medical), from the University of Pittsburgh and his undergraduate from Chapman University, Orange County, California.

17. He is the recipient of an Associate of Arts degree from Cuyahoga Community College and has a Teaching Credential (#108188) from the State of California for adult education (valid for life).

18. In April, 2005, plaintiff William F. Spencer was hired by the Cleveland Public Library as a library assistant which required his active travel and involvement at many of the more than two dozen Library branches as well as the main library.

19. The initial position facilitated a greater understanding of the Library's system by travelling to and working at every one of the Library's 27 branches.

20. Mr. Spencer performed generalized and particularized tasks for the Library as a library assistant including, but not limited to, checking in new materials including books, CDs, DVDs, weeding, collection, management and related tasks, supervised Summer Reading Club events, supervised the Library's Summer Lunch Program, supervised young adults in the Youth Opportunities Unlimited (YOU) Project, ordered library materials, planned and coordinated the quarterly adult and children library activities program, managed the front desks, issued adults and children's library cards and served all 27 of the Library's branches.

21. In addition to the entry of information into the Library's computer system during his service, his focus was customer service which required skill, patience, experience and personality in order to serve a variety of patrons and others.

22. Mr. Spencer participated in the Cleveland Public Library's Staff Development Day and was the Lead Worker at the Library's Broadway Branch for fourteen (14) month which enhanced Mr. Spencer's library management experience.

23. His work also assisted him in development skills and knowledge concerning materials maintained within a branch, aiding customers in the use of Library computers and worked with patrons and Library personnel by utilizing his many years of military and corporate experience and applying

those experiences to promote interpersonal relations among all with whom he came in contact at his assigned branch.

24. Mr. Spencer has also served as a volunteer and intern at the Louis Stokes Cleveland Medical Center Medical Library and Patient Education Resource Center.

25. From 2015 through 2017, Mr. Spencer served as Concierge and Docent to the Cleveland Public Library's main facility.

26. In 2016, Mr. Spencer was promoted to librarian.

27. Mr. Spencer has been the face of the Cleveland Public Library at its main facility.

28. He has been effective in presenting the Cleveland Public Library's history and has conducted multiple tours and explained in detail featured exhibits.

29. He has received recognition from guests from around the world for the enthusiastic and gracious treatment he has offered to the visiting public.

30. Defendant Cleveland Public Library has publicly stated that Mr. Spencer excelled as the Library's Concierge.

31. In 2018, Mr. Spencer met with Mr. Felton Thomas, Executive Director of the Cleveland Public Library.

32. The concept was to advance services to U.S. Veterans and Seniors.

33. While Mr. Thomas expressed initial enthusiasm to the concept, it was ultimately abandoned.

34. The abandonment of special programs for U.S. Veterans and Seniors was a troubling event which was difficult to absorb.

35. So, at the time in 2018, Mr. Spencer applied to be a Branch Manager.

36. A criterion for the position is two years of supervisory experience in a leadership position with a community-based organization or professional association.

37. The Library was aware that Mr. Spencer met that criterion.

38. In August, 2019, his position as Concierge was eliminated.

39. In 2019, the Library lowered its standard, dropping the requirement of possessing an MLIS degree which Mr. Spencer has.

40. All that the Library requires now is a bachelor's degree although the Library indicated that an MLIS degree would make a candidate for a branch "preferred."

41. In 2018 Mr. Spencer applied for the Branch Manager position at the Addison Branch.

42. He was rejected in favor of a younger candidate because the Library claimed Mr. Spencer was lacking in "leadership experience" despite his exceedingly stellar industry and military leadership experience.

43. In 2018, Mr. Spencer applied for the Branch Manager position at the East 131st Street Branch because a younger candidate was given a higher interview score and the Library did not permit him to interview based on the interview for the Addison Branch position.

44. He was rejected in favor of a younger candidate despite the fact that the successful candidate chosen by the Library had less academic credentials than Mr. Spencer had.

45. In 2018, Mr. Spencer applied for the Branch Manager position at the Harvard-Lee Branch.

46. He was rejected in favor of a younger candidate with less academic credentials even before the Library lowered the academic standards and even though Mr. Spencer's academic credentials were "preferred."

47. In 2019, Mr. Spencer applied for the Branch Manager position at the Martin Luther King, Jr. Branch.

48. He was rejected in favor of a younger candidate with less academic credentials even though his academic credentials were "preferred."

49. He was additionally rejected because of the old interview with the Addison Branch a year before and because he had a "lack of managerial experience," despite his exceedingly stellar industry and military leadership experience.

50. In 2019, Mr. Spencer applied for the Branch Manager re-opened position at the Addison Branch.

51. He was rejected in favor of a younger candidate with less academic credentials even though his academic credentials were “preferred.”

52. Mr. Spencer was additionally rejected because of an absence of “managerial experience,” despite his exceedingly stellar industry and military leadership experience.

53. Time after time, the Library has claimed that Mr. Spencer does not possess leadership and managerial experience and did not possess even minimal requirements to be a branch manager.

54. As a result of the acts and conduct of defendant, Mr. Spencer, as the plaintiff, has suffered in the loss of employment opportunities along with salary, benefits, retirement and related matters.

55. As a result of the acts and conduct of defendant Cleveland Public Library, Mr. Spencer, as the plaintiff, has suffered serious, genuine and consequential damages including pain, suffering, emotional harm, mental distress and loss of quality of life.

56. The acts and conduct of Defendant Cleveland Public Library was intentional, reckless and in wanton and reckless disregard of the rights and feelings of Mr. Spencer.

WHEREFORE, plaintiff respectfully requests the Court to grant the following relief:

- A. Declare that the acts and conduct of the defendant constitutes violations of the Age Discrimination in Employment Act of 1967 as amended, 29 U.S.C. §§ 621, *et seq.*, and the Ohio Civil Rights Act, Ohio Revised Code §§ 4112.01, *et seq.*;
- B. Grant to the plaintiff and against defendant a permanent injunction enjoining defendant, its officers, agents, employees, successors, assigns, and all persons in active concert of participation with it, from engaging in any employment practices which discriminate on the basis of age;
- C. Order defendant to institute and to otherwise carry out policies, practices and programs which provide equal employment opportunities for all employees, and which eradicate the effects of its past and present unlawful employment practices on the basis of age;
- D. Order defendant to hire the plaintiff and to make plaintiff whole by providing appropriate back pay with prejudgment interest and for other affirmative relief necessary to eradicate the effects of its unlawful employment practices based on age;
- E. Grant to plaintiff against defendant appropriate compensatory, exemplary, and punitive damages;
- F. Award plaintiff costs in this action including reasonable attorney fees provided by statute;

- G. Grant such further relief as the Court deems just, equitable and in advance of the public interest.

/s/ Avery Friedman

Avery Friedman (0006103)
AVERY FRIEDMAN & ASSOCIATES
701 The City Club Building
850 Euclid Avenue
Cleveland, Ohio 44114-3358
P: 216.621.9282
F: 216.621.9283
avery@lawfriedman.com

Attorney for Plaintiff William F. Spencer

TRIAL BY JURY DEMANDED

Plaintiff William F. Spencer hereby demands trial by jury.

/s/ Avery Friedman

Avery Friedman